

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JOHN W. GOFF and GOFF GROUP,
INC.,

Plaintiffs,

v.

PHOENIX-DURANGO, et al.,

Defendants.

CIVIL ACTION NO.
2:06cv389-SRW

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE AND
EXTENSION OF TIME TO CONDUCT JURISDICTIONAL DISCOVERY**

COMES NOW Phoenix-Durango, LLC, Jeremiah A. Henderson II, and Jeremiah A. Henderson III (jointly "Defendants"), defendants in the above-styled action, and, in response to Plaintiff's Motion for Leave and Extension of Time to Conduct Jurisdictional Discovery, say as follows:

1. On May 26, 2006, Plaintiff John W. Goff filed a Motion to Remand, With Motion for Leave and Extension of Time to Conduct Jurisdictional Discovery, claiming lack of diversity jurisdiction (but offering nothing in support of his speculations). On June 8, 2006, Defendants filed an Objection to Plaintiff's Motion to Remand, supported by affidavits of both individual defendants.

2. Counsel for Plaintiffs and Defendants conferred on May 30, 2006, and the parties agreed to schedule a Rule 26 Planning Meeting to discuss the dates and time permitted for discovery in the matter, including jurisdictional discovery and depositions. The parties will file a Rule 26 Planning Meeting Report with this Honorable Court following the meeting.

3. Jeremiah A. Henderson II and Jeremiah A. Henderson III's citizenship is the sole jurisdictional issue since both the plaintiffs, John W. Goff and Goff Group, Inc., have acknowledged their Alabama citizenship and Phoenix-Durango's citizenship is determined solely by the citizenship of its members. Discovery on this jurisdictional issue, plus any other issues raised in Plaintiff's Motion For Leave and Extension to Conduct Jurisdictional Discovery, will be addressed in the Rule 26 Planning Meeting Report. Any disagreements the parties have over the amount, topics, or timing of such discovery will be presented in the Rule 26 Report.

4. Therefore, Defendants request this Court hold and reserve its consideration of Plaintiff's Motion to Remand, With Motion for Leave and Extension of Time to Conduct Jurisdictional Discovery, until the parties have had an opportunity to conduct the Rule 26 Planning Meeting, submit the Rule 26 Report, and conduct the appropriate jurisdictional discovery.

WHEREFORE, above premises considered, Defendants respectfully request this Honorable Court reserve its consideration of the Plaintiff's Motion to Remand, With Motion for Leave and Extension of Time to Conduct Jurisdictional Discovery, until the parties have submitted their Rule 26 Planning Meeting Report and conducted the appropriate jurisdictional discovery.

s/Vernon L. Wells, II

s/C. Ellis Brazeal

Attorneys for Defendants Phoenix-Durango, LLC,
Jeremiah A. Henderson II, and Jeremiah A.
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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of June, 2006, I electronically filed the foregoing DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE AND EXTENSION OF TIME TO CONDUCT JURISDICTIONAL DISCOVERY with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Thomas T. Gallion III
Jamie A. Johnston
Haskell, Slaughter, Young & Gallion, LLC
305 South Lawrence Street
P.O. Box 4660
Montgomery, Alabama 36103-4660

s/Vernon L. Wells, II